



CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 05/10/01

Agenda Item 2

TO: Planning Commission

FROM: Erik J. Pearson, Associate Planner

SUBJECT: Variance No. 01-180-08 – Ahmed Hussain (Applicant/Owner): Request to construct a second story addition to a single family residence only 10 feet from the rear property line where a minimum of 20 feet is required. The property is located at 27167 Fielding Drive, and is a part of the Hayward Highlands Neighborhood Plan area in the Single-Family Residential District with a minimum lot size of 6,000 square feet (RSB6).

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*; and
2. Approve the variance, subject to the attached findings and conditions of approval.

BACKGROUND:

The property is located within a single-family subdivision of similar homes. The parcel is 104 feet deep and has a width of 60 feet measured at the rear property line. The parcel is developed with a 2,447 square foot, two-story single-family residence built in 1987. The residence is approximately 40 feet from the rear property line. The applicant is requesting a 1,060-square-foot expansion of their home to add a theater room on the first floor and a master bedroom suite on the second floor to accommodate a growing family.

The addition was submitted on plans showing both the first and second stories setback 15 feet from the rear property line. The standard rear yard setback for the RS district is 20 feet. The RS regulations allow a single story addition to be within 10 feet of a rear property line, however, the second floor must meet the regular 20-foot setback. The plans were erroneously approved by staff and the project is now partially constructed. The project was halted after the error was brought to the City's attention by the neighbor to the rear who feels that the addition is too close to the rear property line. To compound the matter, the builder/designer has since discovered that the plans were incorrect and that the addition is actually 10 feet, 6 inches from the rear property line, rather than the 15 feet shown on the plans.

The intent of allowing single story additions as close as 10 feet to the rear property line, but not the second is to afford light, air and privacy to neighboring properties. In this instance, the grade of the subject property is 6 feet lower than the level of the property to the rear. Therefore, the special circumstances that apply to the property are that the second story addition will not appear significantly higher than a single-story addition associated with a more typical lot. The peak of the roof over the addition is approximately 23 feet above grade, or 17 feet above the grade of the rear neighbor's property. A single-story addition with a height of 17 feet would typically be permitted within 10 feet of a rear property line in the RS zone.

If the variance is denied, the applicant can either appeal the denial to the City Council or revise the plans to reduce the depth of the second story by 9 feet, 6 inches. This would reduce the master suite from 630 square feet to 468 square feet.

ENVIRONMENTAL REVIEW:


The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*.

PUBLIC NOTICE:

On April 24, 2001, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, the Hayward Highlands Neighborhood Plan Task Force members and the Hayward Area Planning Association. The Referral Notice provided an opportunity for persons to comment on the project. One telephone inquiry and one e-mail (attached) were received. Both parties opposed the approval of the variance.

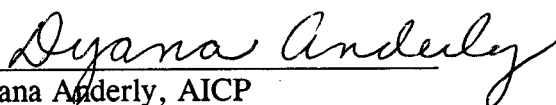
On April 30, 2001, a Notice of Public Hearing for the Planning Commission meeting was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to Hayward Highlands Neighborhood Plan Task Force members and the Hayward Area Planning Association.

Prepared by:



Erik J. Pearson, AICP
Associate Planner

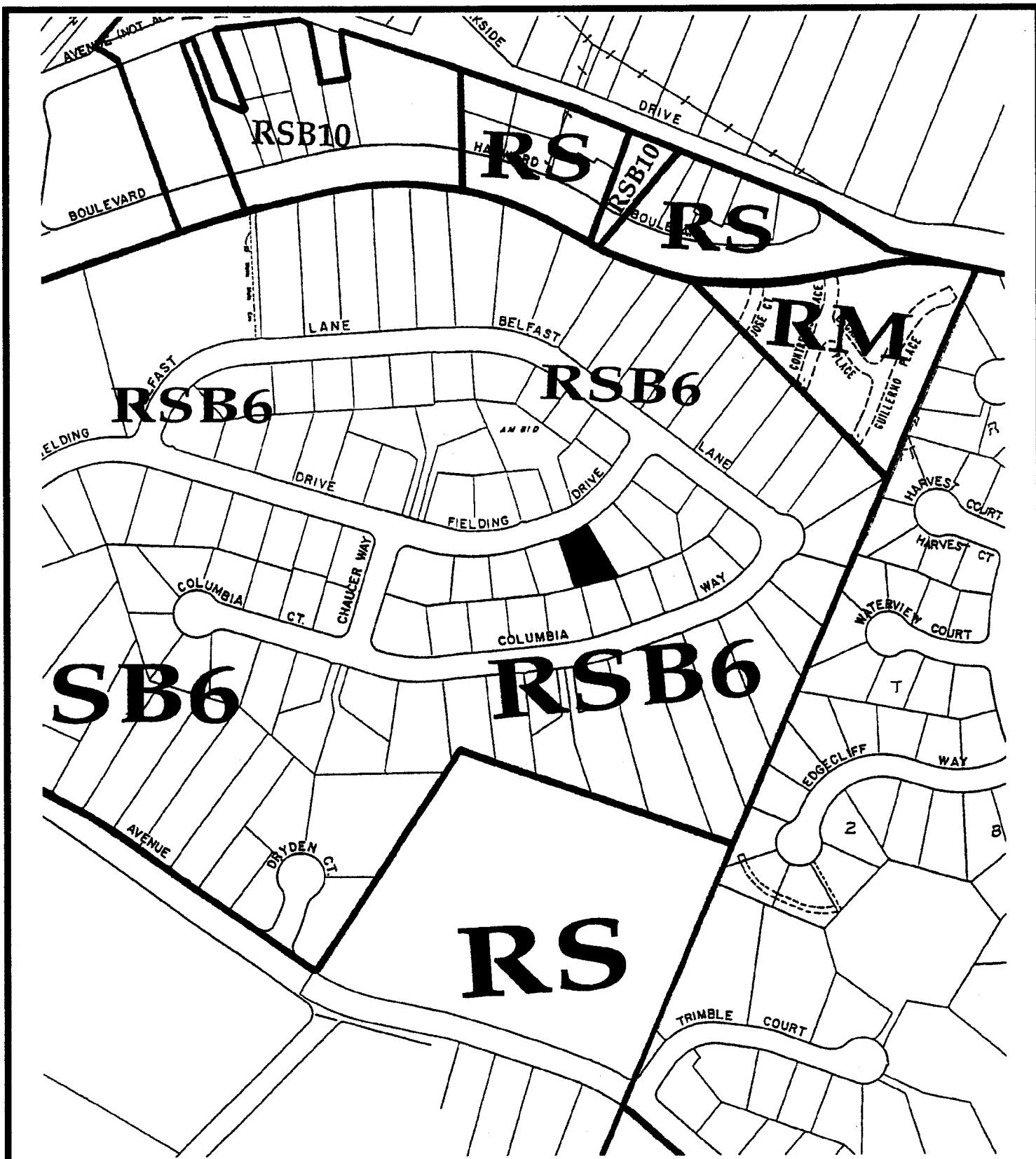
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings
- C. E-mail from Mahlon Gremillion
- D. Plans



Area & Zoning Map

VAR 01-180-08

Address: 27167 Fielding Drive

Applicant: Ahmed Hussain

Owner: Ahmed Hussain

ATTACHMENT A

VARIANCE APPLICATION NO. 01-180-08

Ahmed Hussain (Applicant/Owner)

27167 Fielding Drive

FINDINGS OF APPROVAL

Findings For Approval – Request to construct a second story addition to a single family residence only 10 feet from the rear property line where a minimum of 20 feet is required.

- A. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*.
- B. There are special circumstances applicable to the property regarding this request in that the grade of the subject property is significantly lower than the property to the rear.
- C. Strict application of the Zoning Ordinance would deprive such property of privileges enjoyed by other properties in the vicinity under the same zoning classification.
- D. The variance would not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and the Single-Family Residential zone in which the property is situated in that other properties with similar circumstances would be granted the same consideration.

From: <MAHLONWG@aol.com>
To: COHD.CED(ErikP)
Date: Fri, Apr 27, 2001 10:24 AM
Subject: VAR 01-180-08

Mr. Pearson:

The note was mailed on 24 April, 01 and at that time the roof on the second floor was already partly in place.

It is hard to comment only on this project. This addition does not affect me but I am sure that it affects the neighbor next the house with the addition. He (the neighbor next to the addition) is also restricting my view.

I am restricted to keeping trees, etc. to a maximum height of 15 feet tall in my yard due to restrictions caused by a resident above me that isn't even in our neighborhood. The restriction was set when my house was built.

My view is now being restricted by tall trees on the property of the house next door and just above the house with the addition. He is probably concerned with his view but is not concerned with views by others above him because the restrictions made when these houses were being built was not thought out for the concern of all rather than a few.

So much for city planning.

Regards,

Mahlon Gremillion

ATTACHMENT C